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Paper No. 3

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In re Application of	:
Bobrov et al.	:
Application No. 09/407,218	: DECISION ACCORDING STATUS
Filed: September 27, 1999	: UNDER 37 CFR 1.47(a)
Attorney Docket No. M-5692 US	:

This is in response to the petition under 37 CFR 1.47(a) filed September 27, 1999.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Roberta Saxon establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

Petitioner may wish to consider claiming priority under 35 U.S.C. § 120 to the Patent Cooperation Treaty application. An application may claim the benefit of the filing date of an earlier-filed application so long as the applications are copending. A demand was filed in the PCT application on October 19, 1998 and the US was elected. Therefore, the 30 month deadline expired on September 26, 1999 (a Sunday) and the applicant had until September 27, 1999 to file a national stage or continuation application. Since the above-identified application was filed on September 27, 1999, it was copending with the PCT application and may properly claim priority under 35 U.S.C. § 120 to the PCT application. See Manual of Patent Examining Procedure, Section 1893(c).

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status and the Office of Initial Patent Examination is authorized to:

- (1) accept this application under Rule 1.47(a);
- (2) process the application using the Declaration filed on May 10, 1999, the date the declaration signed on behalf of the non-signing inventor was filed; and

- (3) mail a filing receipt with a filing date of December 30, 1996

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683 or Legal Advisor Karin Tyson at (703)306-3159. Telephone inquiries related to the priority claim for the PCT application should be directed to Senior Legal Advisor Leonard Smith at (703)308-6461.



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for Patent Policy and Projects